IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 683 of 2006.

Decided on: 11.06.2007.

Power Grid Corporation of India Ltd. … Petitioner.

Versus

Shri Kamla Devi and others. … Respondents.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?[1] *No.*

For the petitioner: Mr. K.D. Shreedhar, Advocate.

For Respondents: Mr. Ramesh Sharma, Advocate.

Rajiv Sharma, Judge:

This petition arises out of the award dated 31.3.2006 announced by the Additional District Judge, Shimla under Section 16(3) of the Indian Telegraph Act, 1885.

The brief facts which can be culled out from the pleadings of the parties are that the respondents are owners in possession of the land comprising in Khasra No.57 situated at Mauja Thanari, Tehsil Kotkhai, District Shimla, H. P. The land of the respondents has been utilized for the construction work of tower for laying down the transmission line from Nathpa Jhakri to Abdullapur resulting in damage to 21 apple trees besides 16 timber

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Whether reporters of local papers may be allowed to see the judgment? No.

trees. The respondents were paid a sum of Rs.7,755/- towards the damage caused to the 21 apple trees. The respondents had filed claim petition before the learned Additional District Judge, Shimla on 6.3.1999. The petitioner-Corporation had filed reply to the claim petitioner. The learned Additional Judge had awarded a sum of Rs.68,045/- as compensation to the respondents.

Mr. K.D. Shreedhar appearing on behalf of the petitioner-Corporation had strenuously argued that the award dated 31.3.2006 is not sustainable in the eyes of law. Mr. Ramesh Sharma, Advocate appearing on behalf of the respondents had supported the award dated 31.3.2006.

I have heard the parties and gone through the record.

Admittedly, damage has been caused to 21 apple trees belonging to the respondents. Shri Shyam Lal (respondent No.6) while appearing as PW-1 had deposed that the petitioner-Corporation had constructed tower on their land in the year 1998 causing damage to 21 apple trees. Shri Prabhu Dayal while appearing as PW-2 had stated that the trees had 30 centimeters girth. PW-3 Shri Geeta Ram had deposed that there was increase of 1205 per cent between the period 1966 to 1998 and 1539 per cent till June, 2004.

The petitioner-Corporation had examined Shri S.N. Thakur, Junior Engineer as RW-1, who had admitted that the tower line was laid in June, 1998. Shri Hari Ram Chaudhary, Deputy General Manager while appearing as RW-2 had testified that the claim was allowed as per notification in the gazettee.

This Court has held in **Union of India and others Versus Khazana Ram and others** reported in 1998 (1) SLC, 479 as under:-

> ***"So far the present case is concerned, the year of assessment is 1989 and if we rely upon the Price Index filed along with the replies to the stay applications in the writ petitions, the Price Index has arisen from 79.7 in the year 1966 to 428.8 in the year 1988 taking the Price Index as 100 for the base year 1970-71. The Price Index for the year 1989 has been shown 176.4 by taking 100 for the base year 1981-82. Therefore, the increase from 1966 to 1989 will be approximately five times. Accordingly, we hold that the ends of justice would be met if the claimants are given compensation five time of the compensation assessed by the Department as per Annexure PB to the writ petitions and Ext. RW-1/A on the file of the District Judge. Accordingly, the writ petitions are partly allowed, whereas, the revision petitions are dismissed and the impugned awards dated 29.4.1997 passed by District Judge, Bilaspur are modified. No costs."***

The learned Additional District Judge had correctly enhanced the compensation on the basis of Harbans Singh Formula and after taking into consideration the price rise index produced on record by PW-3 Shri Geeta Ram. The method adopted by the learned Additional Judge cannot faulted with. A sum of Rs.68,045/- awarded by the learned Additional District Judge as compensation for the damage of 21 apple trees is just and fair and will not be interfered by this Court.

There is neither any jurisdictional error nor any procedural irregularity in the award dated 31.3.2006 announced by the learned Additional District Judge.

Accordingly, there is no merit in the writ petition and the same is dismissed. The award dated 31.3.2006 is up-held and interim order dated 23.8.2006 confirmed on 4.1.2007 is vacated. There shall be no order as to costs.

June 11, 2007
(sck).

(Rajiv Sharma)
Judge